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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

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CLERK OF DISTRICT COURT  
S.D. OF FLA. - MIA

CASE NO.:

00-6022

HENRY NARANJO and  
MARLENE RAMIREZ,

Plaintiff(s),

VS.

STEPHEN BYRON SMITH,

Defendant(s).

COMPLAINT

COMES NOW the Plaintiffs, HENRY NARANJO and MARLENE RAMIREZ, by and through their undersigned counsel, and pursuant to 33 U.S.C. §905(b) and the General Maritime Law of the United States, file this Complaint against STEPHEN BYRON SMITH, as state as follows:

1. This action arises under the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. §905(b), as hereinafter more fully appears.
2. At all times material hereto, HENRY NARANJO is a resident of Broward County, Florida.
3. At all times material hereto, MARLENE RAMIREZ was lawfully married to HENRY NARANJO, and is a resident of Broward County, Florida.
4. At all times material hereto, STEPHEN BYRON SMITH, was the owner of the 79-foot aluminum yacht "Souvenir," Official Number 674644.

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5. At all times material hereto, STEPHEN BYRON SMITH and/or his agents were operating the yacht "Souvenir" in the navigable waters of the United States, specifically, Broward County, Florida.
6. At all times material hereto, STEPHEN BYRON SMITH operated, navigated, and maintained a yacht in or about Broward County, Florida, either in person or through others, and otherwise:
  - A. Committed a tortuous act within the State of Florida;
  - B. Was engaged in systematic, substantial, continuous, and not isolated activity within the State of Florida; and
  - C. Made a claim for and collected insurance proceeds for a loss to his yacht "Souvenir," in Broward County, Florida.
7. On or about July 7, 1997, STEPHEN BYRON SMITH had the yacht "Souvenir" at Bradford Marine in Broward County, Florida, for repairs, alterations, and/or maintenance.
8. At all times material hereto, the vessel was upon navigable waters of the United States.
9. HENRY NARANJO was employed by Bradford Marine as a welder, and was assigned to carry out the repairs, alterations, and/or maintenance to the yacht "Souvenir" at the direction and control of STEPHEN BYRON SMITH and/or his agents.
10. At all times material hereto, HENRY NARANJO occupied the status of a harbor worker or ship repairer aboard the yacht "Souvenir" in Broward County, Florida.

**COUNT I**

Plaintiffs re-allege and re-adopt all the common allegations and paragraphs 1 through 10 above, as though fully set forth herein, and further allege:

11. On or about July 7, 1997, HENRY NARANJO was instructed by STEPHEN BYRON SMITH's agent, Captain John K. Bredbeck, to commence repairs, alterations, and/or maintenance in the lazarette of the yacht "Souvenir."
12. HENRY NARANJO proceeded to accomplish this task in a safe and workmanlike manner and exercised reasonable care for his safety, the safety of others, and the safety of the yacht "Souvenir."
13. STEPHEN BYRON SMITH and/or his agents failed to turn over the yacht "Souvenir" in a reasonably safe condition and STEPHEN BYRON SMITH and/or his agents knew or should have known there was a dangerous condition aboard the yacht "Souvenir."
14. STEPHEN BYRON SMITH and/or his agents, specifically, Captain John K. Bredbeck, by act and/or omission were negligent in the following manner:
  - A. By failing to warn HENRY NARANJO of a latent or concealed peril about the yacht "Souvenir."
  - B. By failing to exercise reasonable care under the circumstances.
  - C. By failing to turn over the yacht in a reasonably safe condition.
  - D. By failing to discover a dangerous condition aboard the vessel.
  - E. By failing to operate and/or maintain the vessel in a safe manner.
15. All of the here and above alleged constitute negligence and carelessness by the Defendant, and was a breach of the duties owed by the Defendant to the Plaintiff.

16. As a direct and proximate result, HENRY NARANJO suffered permanent injury in and to his body, and has suffered in the past and will continue to suffer in the future the following damages:

- A. Pain and suffering;
- B. Disability;
- C. Disfigurement;
- D. Mental anguish;
- E. Loss of capacity for the enjoyment of life;
- F. Loss of earnings;
- G. Loss of earnings capacity;
- H. Medical expenses.

WHEREFORE, Plaintiff HENRY NARANJO demands judgment against the Defendant, and a trial by jury, court costs, and such other relief this Court deems just and proper.

### **COUNT II**

Plaintiffs re-allege and re-adopt all the common allegations and paragraphs 1 through 10 above and Count I, as though fully set forth herein, and further allege:

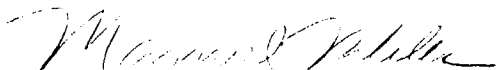
17. As a direct and proximate result of her husband's injury, MARLENE RAMIREZ has sustained the following damages, both in the past and in the future:

- A. Loss of consortium;
- B. Loss of affection;
- C. Loss of attention;
- D. Loss of society;
- E. Loss of comfort;
- F. Medical expenses.

WHEREFORE, Plaintiff MARLENE RAMIREZ demands judgment against the Defendant  
STEPHEN BYRON SMITH, a trial by jury, court costs, and such other relief this court deems just.

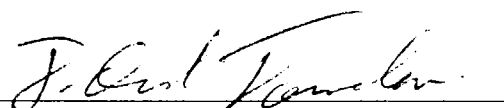
DATED, this 6 of January, 2000.

LAW OFFICES OF JOHN W. BURKE, P.A.  
**Manuel Valdes, Esquire**  
Co-Counsel for Plaintiff  
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BY:   
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FLA. BAR NO. 0860506

**CIVIL COVER SHEET 00-6022**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1972, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**MAGISTRATE JUDGE  
TURNOFF****I (a) PLAINTIFFS**HENRY NARANJO and  
MARLENE RAMIREZ**DEFENDANTS**

STEPHEN BYRON SMITH

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Broward  
(EXCEPT IN U.S. PLAINTIFF CASES)COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Turnoff  
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
TRACT OF LAND INVOLVED

(c) ATTORNEY NAME, ADDRESS, AND TELEPHONE NUMBER

UNDERWOOD, KARCHER & KARCHER  
6th Floor - Grove Plaza Building  
2900 S.W. 28th Terrace  
Miami, Florida 33133305/446-2300

ATTORNEYS (IF KNOWN)

(d) CIRCLE COUNTY WHERE ACTION AROSE:

DADE, MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE, HIGHLANDS**II. BASIS OF JURISDICTION**

(PLACE AN X ONE BOX ONLY)

- ☐ 1. U.S. Government Plaintiff
- ☒ 3. Federal Question (U.S. Government Not a Party)
- ☐ 2. U.S. Government Defendant
- ☐ 4. Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES**

(For Diversity Case Only)

- Citizen of This State ☐ PTF ☐ DEF ☐
- Citizen of Another State ☐ 2 ☐ 2
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3

(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- Incorporated of Principal Place of Business in This State ☐ PTF ☐ DEF ☐
- Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5
- Foreign Nation ☐ 6 ☐ 6

**IV. CAUSE OF ACTION**

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

This is a claim brought pursuant to the Longshore and Harbor Workers' Compensation Act, 33 USC Section 905(b)

IVa.        days estimated (for both sides) to try entire case

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

A CONTACT	A TORTS	B FORFEITURE PENALTY	A BANKRUPTCY	A OTHER STATUS
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) B <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits B <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input checked="" type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personnel Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending B <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>A LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor Management Relations B <input type="checkbox"/> 730 Labor Management Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Ret. Inc. Security Act B	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>A PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>B SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395H) <input type="checkbox"/> 862 Black Lung (202) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSD Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>A FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	<input type="checkbox"/> 400 States Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. B <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12USC3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions * * A or B
<b>A REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure B <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>A CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>B PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General * <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other * <input type="checkbox"/> 550 Civil Rights * A or B		

**VI. ORIGIN**

(PLACE AN X IN ONE BOX ONLY)

- ☒ 1. Original Proceeding
- ☐ 2. Removed From State Court
- ☐ 3. Remanded from Appellate Court
- ☐ 4. Refiled
- ☐ 5. Transferred from another district (Specify)
- ☐ 6. Multidistrict Litigation
- ☐ 7. Appeal to District Judge from Magistrate Judgment

**VII. REQUESTED**

CHECK IF THIS IS A

**CLASS ACTION****DEMAND \$**☐ Check YES only if demanded in complaint:☒ YES**JURY DEMAND:**☐ NO**VIII. RELATED CASE(S) IF ANY**

(See Instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

F. David Famulari, Esquire

UNITED STATES DISTRICT COURT

S/F 1-2

REV. 9/94

FOR OFFICE USE ONLY: Receipt No.

815062Amount: 150.00Date Paid: 01/10/00M/fp: